

1 SPENCER HOSIE (CA Bar No. 101777)  
shosie@hosiela.com  
2 BRUCE WECKER (CA Bar No. 078530)  
bwecker@hosiela.com  
3 GEORGE F. BISHOP (CA Bar No. 89205)  
gbishop@hosiela.com  
4 HOSIE RICE LLP  
One Market, 22nd Floor  
5 San Francisco, CA 94105  
(415) 247-6000 Tel.  
6 (415) 247-6001 Fax

7 Attorneys for Plaintiff CLOAKWORKS, INC.

8  
9 MARK D. SELWYN (CA Bar No. 244180)  
ELIZABETH ROGERS BRANNEN (CA Bar No. 226234)  
JESSICA L. SCHEPPMANN (CA Bar No. 239526)  
10 WILMER CUTLER PICKERING  
HALE AND DORR LLP  
11 1117 California Avenue  
Palo Alto, California 94304  
12 Telephone: (650) 858-6000  
Facsimile: (650) 858-6100  
13 Email: mark.selwyn@wilmerhale.com  
Email: elizabeth.brannen@wilmerhale.com  
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15 Attorneys for Defendant CLOAKWARE INC.

16 UNITED STATES DISTRICT COURT  
17 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
18 SAN FRANCISCO DIVISION

19 CLOAKWORKS, INC.,

20 Plaintiff,

21 v.

22 CLOAKWARE, INC. and MICROSOFT  
23 CORPORATION,

24 Defendants.

Case No. CV 08-02044 WHA

**STIPULATION OF DISMISSAL WITH  
PREJUDICE OF ENTIRE ACTION  
AND ~~PROPOSED~~ ORDER**

1 Plaintiff and Counterclaim-Defendant Cloakworks, Inc. ("Cloakworks" or "Plaintiff")  
2 and Defendant and Counterclaim-Plaintiff Cloakware Inc. ("Cloakware" or "Defendant")  
3 hereby stipulate through their respective counsel of record as follows:

4 WHEREAS, on April 18, 2008, Cloakworks filed its Original Complaint and Demand  
5 for Jury Trial [Document No. 1] against Cloakware, alleging infringement of U.S. Patent No.  
6 6,192,475 (" '475 Patent");

7 WHEREAS, on October 30, 2008, Cloakworks filed its First Amended Complaint and  
8 Demand for Jury Trial against Cloakware and Microsoft Corporation ("Microsoft") [Document  
9 No. 50-2];

10 WHEREAS, Cloakware has answered the Original and First Amended Complaints, and  
11 has asserted counterclaims against Cloakworks seeking declarations of non-infringement and  
12 invalidity of the '475 Patent [Documents Nos. 19, 50-3, and 66]; and

13 WHEREAS, Microsoft has not yet answered the First Amended Complaint or otherwise  
14 appeared in this action;

15 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between  
16 Cloakworks and Cloakware (the sole defendant having appeared in this action), through their  
17 respective counsel of record, that the entire action (including all claims against Microsoft) is  
18 dismissed *with prejudice* pursuant to Federal Rule of Civil Procedure 41. Each party shall bear  
19 its own costs and fees.

20 **IT IS SO STIPULATED.**  
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2 Dated: December 8, 2008

WILMER CUTLER PICKERING HALE  
AND DORR LLP

3 By: /s/ Mark D. Selwyn  
4 Mark D. Selwyn

5 Attorneys for Defendant Cloakware, Inc.

6  
7 Dated: December 8, 2008

HOSIE RICE LLP

8 By: /s/ George F. Bishop  
9 George F. Bishop

10 Attorneys for Plaintiff Cloakworks, Inc.

11 I hereby attest pursuant to General Order 45.X.B. that concurrence in the electronic  
12 filing of this document has been obtained from the other signatories.

13 DATED: December 8, 2008

14  
15 By: /s/ Mark D. Selwyn  
16 Mark D. Selwyn

~~[PROPOSED]~~ ORDER

Pursuant to Federal Rule of Civil Procedure 41 and the stipulation of the parties having appeared in this action, it is hereby ORDERED that the entire action (including all claims against Microsoft) is dismissed *with prejudice*. Each party shall bear its own costs and fees.

**PURSUANT TO STIPULATION IT IS SO ORDERED**

December <sup>9</sup>, 2008

Honorable William H. Alsup  
United States District Judge

